



BILLING CODE 4410-NW

**DEPARTMENT OF JUSTICE**

**[Docket No. JMD 156]**

**Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act**

**AGENCY:** Department of Justice.

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 70913(a) of the Infrastructure Investment and Jobs Act and consistent with OMB Memorandum 22-08, *Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act*, Federal entities are required to provide the Office of Management and Budget (OMB) and Congress a report listing all Federal financial assistance programs for infrastructure administered by the agency. This report is required to be published in the *Federal Register*. The Department of Justice has prepared the report provided below regarding its financial assistance programs that provide funding that may be used by recipients for infrastructure projects.

**FOR FURTHER INFORMATION CONTACT:** For further information about these programs, contact Tara M. Jamison, Director, Office of Acquisition Management, Justice Management Division, 145 N Street NE, Room 8W.210, Washington, DC 20530, (202) 616-3754 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

**1. Introduction**

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (“IIJA”), which includes the “Build America, Buy America Act” (the Act). This Act ensures that Federal infrastructure programs require the use of materials

produced in the United States, increases the requirement for American-made content, and strengthens the waiver process associated with Buy America provisions. The Act requires that within 60 days of its enactment, January 14, 2022, each agency must submit to the Office of Management and Budget (OMB) and Congress and publish in the Federal Register a report (“60-day report”) listing all Federal financial assistance programs for infrastructure administered by the agency.

## **2. Financial Assistance Programs for Infrastructure**

There are three components within the Department of Justice (DOJ) responsible for Federal financial assistance programs: the Office of Justice Programs (OJP); the Office on Violence Against Women (OVW); and the Office of Community Oriented Policing Services (COPS Office).

This report reflects an initial identification of each Federal financial assistance program for infrastructure administered by these offices and an analysis of associated domestic content procurement preferences applicable to the Federal financial assistance. This initial analysis is based on the agency’s current understanding of information contained in the law and the imminent timing requirements for reporting. This initial analysis is subject to change upon further evaluation. In FY 2022, the following programs for which at least part of the funding may potentially be used for a “project” for “infrastructure” as those terms are defined by IIJA and OMB M-22-08 have been identified.

**2.1** OJP’s 16.596 Tribal Justice Systems Infrastructure Program (TJSIP), which is Purpose Area 4 under the Coordinated Tribal Assistance Solicitation (CTAS), assists tribes in developing effective strategies to cost effectively renovate, expand, or replace existing facilities associated with the incarceration and rehabilitation of juvenile and adult justice-involved individuals subject to tribal jurisdiction. Generally, the types of projects funded under this program do not entail “infrastructure” on the scale contemplated by the IIJA or

OMB M-22-08; however, it remains possible that projects of that scope, scale and nature could be funded in the future. Pursuant to OMB M-22-08, before applying any Buy America preferences to this program, which will directly affect Tribal communities, OJP is obligated to follow the consultation policies established through Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, and consistent with policies set forth in the Presidential Memorandum of January 26, 2021, on *Tribal Consultation and Strengthening Nation-to-Nation Relationships* to the extent necessary to address the exceptional type of infrastructure project described above.

**2.2** OJP's 16.753 Byrne Discretionary Community Project Funding distributes funding to support projects designated for funding in the Consolidated Appropriations Act, 2022 (Pub. L. 117-103) that improve the functioning of the criminal justice system, prevent, or combat juvenile delinquency, and assist victims of crime (other than compensation). The joint explanatory statement accompanying Pub. L. No. 117-103 lists the designated projects, which is incorporated by reference into the Appropriations Act. Thus, the types of projects, which may include "infrastructure," are determined by the appropriation. To the extent that "infrastructure projects" may be authorized, OJP will, as it becomes legally necessary, impose special conditions on those awards to include "Build America, Buy America"-specific provisions.

**2.3** COPS Office's 16.710 Technology and Equipment Program (TEP) distributes funding to support projects designated in the Consolidated Appropriations Act, 2022 (Pub. L. 117-103) for law enforcement technologies, interoperable communications, and public safety equipment. The joint explanatory statement accompanying Pub. L. No. 117-103 lists the designated projects, which is incorporated by reference into the Appropriations Act. Thus, the types of projects, which may include "infrastructure," are determined by the appropriation. To the extent that "infrastructure projects" may be authorized, the COPS

Office will, as it becomes legally necessary, impose special conditions on those awards to include “Build America, Buy America”-specific provisions.

**2.4** Table 3-1 Recipients and Funds Awarded, below provides the number of entities that are participating in, and the amount of Federal funds that have been made available. Shown are the programs for each fiscal year, the total number of recipients and federal funds awarded under their respective programs, which are not limited solely to funding for “infrastructure projects.” At the time of this report, DOJ is still in the process of making its FY2022 awards and thus, the FY2022 figures indicated above may not be final.

Table 3-1 Recipients and Funds Awarded

Assistance Listing	Number of Recipients			Federal Funds Awarded		
	FY2020	FY2021	FY2022	FY2020	FY2021	FY2022
16.596 [TJSIP]	9	9	0	\$8,768,582	\$8,067,424	\$0
16.753 [Byrne Discretionary]	0	0	202	\$0	\$0	\$153,147,000
16.710 [TEP]	0	0	121	\$0	\$0	\$111,744,000

Consistent with Pub. L. No. 117-58, 135 Stat. 429, 1295, no “domestic content procurement preference” as defined by Section 70912(2), set forth in Section 70913(b)(2), or consistent with Section 70914 applies to DOJ’s programs. All DOJ awards administered by the above-mentioned offices encourage non-Federal entities, pursuant to 2 C.F.R. § 200.322, to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) to the greatest extent practicable under the Federal award and as appropriate and consistent with law.

**2.5** DOJ has reviewed its Federal financial assistance programs and has determined that it does not administer any financial assistance programs for infrastructure as defined under the Act. Nor were any deficient programs, as defined under the Act, identified. This information has been reported to Congress and OMB as required by the Act.

Dated: December 14, 2022.

**Tara M. Jamison,**

*Director,*

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*Justice Management Division.*

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